

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAGHVENDRA SINGH,  
Plaintiff,

v.

CITY OF PLACERVILLE, et al.,  
Defendants.

No. 2:23-cv-54-DAD-KJN PS

ORDER GRANTING IFP REQUEST AND  
FINDINGS AND RECOMMENDATIONS TO  
DISMISS

(ECF No. 2.)

Plaintiff, who is proceeding without counsel in this action, requests leave to proceed in forma pauperis (“IFP”).<sup>1</sup> (ECF No. 2.) See 28 U.S.C. § 1915 (authorizing the commencement of an action “without prepayment of fees or security” by a person who is unable to pay such fees). Plaintiff’s affidavit makes the required financial showing, and so plaintiff’s request is granted.

However, the determination that a plaintiff may proceed without payment of fees does not complete the inquiry. Under the IFP statute, the court must screen the complaint and dismiss any claims that are “frivolous or malicious,” fail to state a claim on which relief may be granted, or seek monetary relief against an immune defendant. 28 U.S.C. § 1915(e)(2). Further, the federal court has an independent duty to ensure it has subject matter jurisdiction in the case. See United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 967 (9th Cir. 2004).

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<sup>1</sup> Actions where a party proceeds without counsel are referred to a magistrate judge pursuant to E.D. Cal. L.R. 302(c)(21). See 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72.

## **Legal Standards**

### **i. Subject Matter Jurisdiction**

The court must dismiss a case if, at any time, it determines that it lacks subject matter jurisdiction. Rule 12(h)(3).<sup>2</sup> A federal district court generally has original jurisdiction over a civil action when: (1) a federal question is presented in an action “arising under the Constitution, laws, or treaties of the United States” or (2) there is complete diversity of citizenship and the amount in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331, 1332(a). Further, a plaintiff must have standing to assert a claim, which requires an injury in fact caused by defendant(s) that may be redressed in court. Harrison v. Kernan, 971 F.3d 1069, 1073 (9th Cir. 2020). Under the well-pleaded complaint rule, “federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

### **ii. Failure to State a Claim**

A claim may be dismissed because of the plaintiff’s “failure to state a claim upon which relief can be granted.” Rule 12(b)(6). A complaint fails to state a claim if it either lacks a cognizable legal theory or sufficient facts to allege a cognizable legal theory. Mollett v. Netflix, Inc., 795 F.3d 1062, 1065 (9th Cir. 2015). To avoid dismissal for failure to state a claim, a complaint must contain more than “naked assertions,” “labels and conclusions,” or “a formulaic recitation of the elements of a cause of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007). In other words, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Thus, a complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Id. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id.

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<sup>2</sup> Citation to the “Rule(s)” are to the Federal Rules of Civil Procedure, unless otherwise noted.

When considering whether a complaint states a claim upon which relief can be granted, the court must accept the well-pleaded factual allegations as true, Erickson v. Pardus, 551 U.S. 89, 94 (2007), and construe the complaint in the light most favorable to the plaintiff, see Papasan v. Allain, 478 U.S. 265, 283 (1986). The court is not, however, required to accept as true “conclusory [factual] allegations that are contradicted by documents referred to in the complaint,” or “legal conclusions merely because they are cast in the form of factual allegations.” Paulsen v. CNF Inc., 559 F.3d 1061, 1071 (9th Cir. 2009).

### iii. Filings by Litigants Proceeding Without Counsel

Pro se pleadings are to be liberally construed. Hebbe v. Pliler, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction appropriate even post-Iqbal). Prior to dismissal, the court is to tell the plaintiff of deficiencies in the complaint and provide an opportunity to cure—if it appears at all possible the defects can be corrected. See Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc). However, if amendment would be futile, no leave to amend need be given. Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 339 (9th Cir. 1996).

### Analysis

Here, plaintiff’s complaint consists of a two page narrative that is lacking in facts and consists mostly of conclusory assertions. As best the court can tell, plaintiff appears to request this court intervene in some unknown number of state-court criminal cases. Plaintiff states that defendants’ actions via the state court system affect minority populations in that convictions are entered based on alleged false testimony. It is unclear if plaintiff includes himself in this category, but the court is aware that plaintiff was previously convicted of criminal offenses. See, e.g., Raghendra Singh v C. Pfeiffer, 2:21-cv-1731-TLN-JDP (plaintiff’s habeas corpus action challenging his conviction under Cal. Pen. Code. § 115 for forgery, wherein he argued a lack of evidence). It is unclear what source of law plaintiff relies on in the current complaint, though he checks “federal question” and “other civil rights” on the civil cover sheet. Plaintiff seeks \$100 million in damages, among other relief. (See ECF No. 1.)

There are multiple issues with the complaint. First, as plaintiff is well aware (because the court has informed him of this on multiple occasions), he has no standing to assert any claim on

1 behalf of other persons. Harrison, 971 F.3d at 1073 (noting that an injury to the plaintiff is a core  
2 component of Article III standing); see also, e.g., Hawai'i by Off. of Consumer Prot. v. Stone,  
3 2019 WL 5058910, at \*7 (D. Haw. Oct. 8, 2019) (reminding that pro se plaintiff “does not have  
4 standing to assert claims on behalf of third-parties”).

5 Second, though plaintiff checked the “other civil rights” box on the cover sheet, it is  
6 unclear what civil rights he intends to assert. Thus, the complaint fails to state a claim. Mollett,  
7 795 F.3d at 1065 (noting that a complaint fails to state a claim if it either lacks a cognizable legal  
8 theory or sufficient facts to allege a cognizable legal theory).

9 Third, to the extent plaintiff is attempting to bring a civil action for violation of his civil  
10 rights because plaintiff was prosecuted and imprisoned, absolute prosecutorial immunity applies  
11 for any action taken within the scope of a prosecutor’s adjudicatory duties, including filing  
12 charges, initiating prosecution or any conduct integral to the judicial phase of the criminal  
13 process. Imbler v. Pachtman, 424 U.S. 409, 421-24 (1976).

14 Fourth and finally, to the extent the complaint intends to allege violations of various  
15 provisions of state criminal law (like plaintiff’s allegations that defendants are committing  
16 murders), private citizens have no right to sue for violations of the criminal code. See Allen v.  
17 Gold Country Casino, 464 F.3d 1044, 1048 (9th Cir. 2006) (no private right of action for  
18 violation of criminal statutes).

19 Ordinarily, the court liberally grants a pro se plaintiff leave to amend. However, the  
20 record here shows that plaintiff would be unable to cure the above-mentioned deficiencies  
21 through further amendment of the complaint. This is true because, even if plaintiff were to  
22 identify which Amendment was at issue in a civil rights claim, and even if the complaint focused  
23 solely on defendants’ actions against plaintiff himself, it appears plaintiff is attempting to  
24 challenge a prior conviction in this civil action. Plaintiff continually focuses on defendants’  
25 alleged use of false evidence to obtain convictions. Dissatisfaction with the results of a criminal  
26 case requires an appeal within that case or the filing of a habeas action, not a filing of a Section  
27 1983 claim. See, e.g., Cts. v. United States Dist. Ct. for the E. Dist., 2017 WL 931884, at \*2  
28 (E.D. Cal. Mar. 9, 2017) (reminding that challenges to the constitutionality of a conviction

“cannot be raised by way of a section 1983 complaint” but must be raised in habeas). Thus, the court concludes that granting leave to amend would be futile. Cahill, 80 F.3d at 339.


**ORDER AND RECOMMENDATIONS**

Accordingly, IT IS HEREBY ORDERED that plaintiff’s IFP application is GRANTED. Further, it is RECOMMENDED that:

1. The action be DISMISSED WITH PREJUDICE; and
2. The Clerk of Court be directed to CLOSE this case.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, plaintiff may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

Dated: March 20, 2023

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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